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ABSTRACT

This report points up the infringement on student constitutional rights by Washington State public schools. To remedy the situation, the report proposes State legislation guaranteeing the substantive rights of students. The proposed legislation is presented together with explanatory and supportive statements. A related document is EA 003 787. (JF)

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WASHINGTON STATE LEGISLATURE

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THE APPLICATION OF THE BILL OF RIGHTS TO PUPILS IN THE COMMON SCHOOLS OF THE STATE OF WASHINGTON

A REPORT TO THE WASHINGTON STATE LEGISLATURE
BY THE SUBCOMMITTEE ON STUDENT AND
PERSONNEL PRACTICES OF THE JOINT
COMMITTEE ON EDUCATION

EA 003 785

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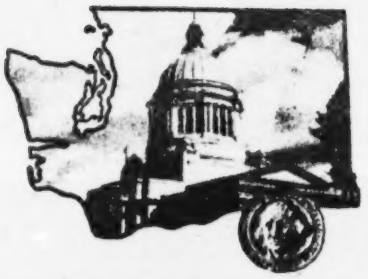
Ralph E. Julnes

Phone: (206) 753-2080
SCAN 234-2080



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WASHINGTON STATE LEGISLATURE

HOUSE OFFICE BUILDING

OLYMPIA, WASHINGTON 98501

November 5, 1970

GOVERNOR DANIEL J. EVANS

MEMBERS OF THE WASHINGTON STATE LEGISLATURE

AND CITIZENS OF THE STATE OF WASHINGTON:

During the past interim, the Subcommittee on Student and Personnel Policies has endeavored to investigate the causes of the strained relationship between common school students, particularly at the secondary level, and their school authorities. One dimension of the problem is that school authorities in many cases are denying students what the constitutions of the United States and the State of Washington forbid from abridgement--namely, their substantive right to freedom of religion, speech, press, etc.

Students are being encouraged to challenge school authorities in the courts when their rights are denied, and school authorities increasingly are being informed by the courts that student allegations are correct. This creates an unhealthy student-school official relationship and encourages other student dissention.

This report seeks to remedy this situation by specifying in law for school authorities what are the substantive rights of students and the parameters of school officials to make rules and regulations in the area of personal freedoms. The report does not condone disruptive student behavior, but it does seek, through a legislative remedy, to eliminate such behavior as a means to secure legitimate and constitutional ends.

Respectfully submitted,

Pete Francis

Pete Francis, Chairman
SUBCOMMITTEE ON STUDENT AND
PERSONNEL POLICIES

THE APPLICATION OF THE BILL OF RIGHTS TO PUPILS IN
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COMMITTEE OFFICE:

House Office Building
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November 5, 1970

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Senator Pete Francis
Chairman

Mr. William Daley
Consultant

INTRODUCTION

It is an acknowledged principle of constitutional law, understood by most students of the legal process, that the due process clause of the Fourteenth Amendment of the United States Constitution prohibits the states and their political subdivisions from abridging the essential rights of their citizenry. Included within these rights are the principles enunciated within the First Amendment of the United States Constitution: "Congress (state legislatures and political subdivisions thereof) shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceable to assemble, and to petition the government for a redress of grievances." Similar prohibitions for the State of Washington and its political subdivisions are found in Article 1 of the State's Constitution and throughout the Bill of Rights. Despite these enunciations of basic rules of fair play in a democratic system, pupils in the common schools of the State of Washington and other states find it necessary to do legal battle in the courts to gain recognition of these rights from school authorities. The tone and tenor of this report is to request the Washington State Legislature to serve notice upon school officials that it is not the intent of the State's lawmakers to condone the abridgment of pupil rights guaranteed by the United States and Washington State constitutions.

HOUSE BILL NO. 178 (1970 LEGISLATURE)

Because of the developing body of case law dealing with pupil conduct, discipline, and rights, the Joint Committee on Education--at the request of this Subcommittee--submitted House Bill No. 178 to the Legislature during the 1970 Special Session. This bill dealt primarily with court established due process procedures in discipline cases. Its purpose was to provide uniform principles of fair play in school district dealings with the suspension and expulsion of students. The closest that bill came to dealing with substantive rights of students was the provision in section 5 which reads as follows: "No pupil shall be expelled, suspended, or disciplined in any manner for the performance of or failure to perform any act not directly related to the orderly operation of the school or school-sponsored activities or any

other aspect of the educational process." It was anticipated that this section would constrain school authorities from passing rules and regulations which could not be construed as "directly related to the educational process. . ." and hence, would deny the limitation of First Amendment Rights unless such rules were clearly necessary for the direct preservation of health and safety or to maintain essential educational functions. Testimony before the Subcommittee indicates that the Legislature needs to be more explicit in its intent.

House Bill No. 178 was approved by the House Education Committee but failed to emerge from the House Rules Committee due to the exigencies faced by the 1970 Legislature. It is expedient, therefore, to include a specific statement of the substantive rights of pupils in a separate bill.

LEGAL PRECEDENCE

Recent U. S. Supreme Court rulings indicate quite clearly that the procedural and substantive due process procedures embodied in the Fourteenth Amendment of the United States Constitution are applicable to pupils in the common schools. In fact, recent decisions have only emphasized what the U. S. Supreme Court ruled in 1943 in West Virginia Board of Education v. Barnette. In speaking for the Court Mr. Justice Jackson noted:

> The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures--Boards of Education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitude.

Mr. Justice Jackson, in ruling against the school boards and supporting the pupil's First Amendment Right, went on to note: "If there is any fixed star in our Constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."

Recent Supreme Court decisions have built upon the base provided by Mr. Justice Jackson in the Barnette case. In re Gault (1967) and Tinker v. Des Moines School District (1969) leave no doubt as to the application of the doctrines enunciated in Barnette and that school officials are constrained in their actions in dealing with pupil behavior by the principles embodied in the Bill of Rights. Although constraining, it does not mean that school officials are without authority to control actions carried forth by pupils under the guise of the Bill of Rights, if, in reality, they are detrimental to the education process for they are harmful to "health, safety, or disruption." The Attorney General's office has made it clear to the Subcommittee that school officials have the authority to protect the health and safety of pupils and to prevent disruption of the educational process.

The administrative difficulty for school officials is that they are confronted with the need to balance the concerns of "health, safety, and disruption" with the need to protect the First Amendment Rights and other rights of pupils. This is no easy task, and there are no simple rules to guide decision-making in complicated cases. That, though, is why there are courts of law and why such decisions are appealable. However, as a general rule, courts tend to defer to the legitimacy of school authority action. The Attorney General's office, in a memorandum to the Joint Committee on Education, noted that:

> Power has been granted to the superintendent of public instruction, the state board of education, and the authorities of the local school to pre-mulgate reasonable rules. Whether a given rule is in itself reasonable is a question of law which will be decided by a court. However, there is a strong presumption that exists in favor of the reasonableness and propriety of a rule that has been adopted by school authorities under statutory authority.

EDUCATION AND CONSTITUTIONAL RIGHTS

This rule of presumption, described above as applied to pupils, is no different from the usual construction of law--namely, that acts of rules and regulations of governmental authorities are presumed constitutional until proven otherwise by the aggrieved parties in a court. This rule of construction does invite challenge and confrontation of established authority by pupils when they have an alleged grievance regarding constitutional rights, but it is no different in application from the responsibility of the general citizenry when faced with obedience to a law which they consider to be unconstitutional. Such personal decisions are the basis upon which the American system of constitutional law was founded, and it should apply to no less a degree to the conscience of individual pupils. No better training can exist in the duties of citizenship and worth of the democratic system under which they live. To do other wise indoctrinates the youth of the nation and its future governors to a blind faith in the propriety of all governmental edicts. The morality of the American system hinges on the ability of its people to choose intelligently between the just and the unjust act or deed.

Testimony before the Subcommittee by leaders of student groups has indicated a deep concern that the rights outlined in the United States Constitution and proudly taught in the schools are not being guaranteed to the very students who have been asked to believe in them. This has had the effect of making the education process seem hypocritical. For example, students are taught to believe in the guarantees of freedom of speech but numerous examples exist of the censoring of student publications and the disciplining of students for expressing outspoken opinions. The difficulties have been exacerbated in a time of changing political and moral values when young people hold strong opinions about politics that differ from the opinions of school officials, school boards, and parents.

In addition to being hypocritical, the inhibitions placed on the free exchange of ideas within school systems are deemed educationally harmful. Education does not consist simply of one group imposing a single set of ideas on the young. Rather, it should consist of a free exchange of ideas, the freedom to

explore, and to learn how to think by actually doing so. The guarantee of f freedoms outlined in the Bill of Rights should provide an atmosphere where the free exchange of ideas would exist between all classes, races, and political persuasions and should be a substantial benefit to the nation's educational system in an age where it faces the prospect of technological manipulation and overly powerful mass media.

An example of the deep concern of students is contained in Appendix A, a copy of a proposed "Student Bill of Rights" submitted to the Subcommittee by the King County Youth Action Council. A reading of that proposal demonstrates a high degree of sophistication in the understanding of the Supreme Court's interpretation of pupil constitutional rights. The students have sought to make the Bill of Rights, as applied to pupils, more explicit by incorporating their agreement or disagreement with recent Supreme Court decisions. The Subcommittee has not agreed with this approach for two reasons. It is felt that vagaries inherent in the First Amendment are particularly desirable for meeting the changing nature of law as the needs of society change and that as a principle pupils should have no more or no less constitutional protection of their rights than the populace as a whole.

Some concern has developed in school circles concerning the feasibility of implementing and guaranteeing students procedural and substantive rights embodied in the United States Constitution. Attached to this report, in Appendix B, is a statement by Dr. Edward P. Palmason, President of the Seattle School Board, which has attached the adopted policy of the Seattle School District entitled "Statement of Rights and Responsibilities Including Substantive Regulations and Due Process Procedures." This statement demonstrates that school districts are able to face the need to balance Constitutional Rights and the workings of the educational system. Other school districts in the State have begun a process of establishing, or have established, similar rules and regulations. Testimony offered to the Subcommittee indicates that they have experienced no substantial problems. As a matter of fact, they have eliminated a number of problems that they have had in the past, because the matter of rights had not been dealt with clearly, concisely, and fairly. The point is that it can be done because it has been done successfully.

A LEGISLATIVE PROPOSAL

Even though court decisions in the area of rights of students have been widely publicized, many school districts in the State of Washington have not adopted rules and regulations guaranteeing their protection. Testimony before the Subcommittee offered by both the Attorney General's office and the Office of the State Superintendent of Public Instruction indicates that it would be very helpful to students and to school districts if legislation mandating the implementation of such rules and regulations were passed into law. Attached to this report as Appendix C is a legislative proposal outlining the substantive rights of students and mandating school boards to develop rules and regulations implementing those rights. In essence, the bill simply utilizes relevant language from Articles I, IV, V, and IX of the Bill of Rights and makes it applicable to the school districts. In addition, the bill allows for a limitation of those rights in the areas of health, safety, and disruption.

It is difficult to imagine opposition to the philosophy of the proposed Act, for it does no more than make explicit what is already the law of the land. The proposed Act seeks not to establish but to recognize. In fact, the Legislature, by the nature of the American system, is precluded from denying these rights. Mr. Justice Jackson said it succintly in the Barnette Case, when he noted:

> The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's rights to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no election.

The Subcommittee recommends:

RECOMMENDATION NO. 1

That the proposed legislation dealing with substantive rights for pupils in the common schools be approved by the Joint Committee on Education for submission to the 1971 Legislature.

APPENDIX A

KING COUNTY YOUTH ACTION COUNCIL

HIGH SCHOOL STUDENT BILL OF RIGHTS

(1) No student shall be hindered in, or punished for, exercising his freedom of expression, whether by speech, publication, symbolic conduct, except insofar as his conduct constitutes a material and substantial disruption of the educational function of the school.

(2) All students retain their individual right to privacy. Their cars, lockers, persons, and personal effects shall not be subject to search without a warrant or without legal probable cause that a criminal act is occurring.

(3) No pupil may be interrogated regarding alledged misconduct unless he is first informed that he has a right to remain silent and to have a spokesman present and consents in writing to be questioned in the absence of a spokesman. No person shall be punished or intimidated for exercising these rights.

(4) All school records on a student shall be available upon specific request, therefore, to teachers and counselors to whom he is assigned, to his parents and to the student himself on request during regular office hours, and to no one else, except by the written request of the student concerned.

(5) The student shall be priviledged to add statement(s) to his records which refute derrogatory comment(s).

(6) All students have the right to participate in the full educational process, and shall not be discriminated against on the basis of race, religion, national origin, economic or social status, sex, political beliefs, marital status, or pregnancy.

(7) Corporal punishment shall not be used as a method of school discipline.

(8) School discipline may be applied only to misconduct occurring on school grounds, at official school activities, or which directly interferes with the rights of other persons to the educational process.

Students who become the subjects of criminal prosecution shall be free from school disciplinary action for the same charge unless such disciplinary action is directly necessary for the protection of persons or property from physical harm.

(9) No student shall be suspended or expelled without being given recourse to the due process procedures set forth in House Bill 178, State of Washington, 41st Legislature, Second Extraordinary Session, by Representatives Sprague, Brouillett and Mahaffey (by Joint Committee on Education request), read first time January 17, 1970, and referred to Committee on Education and Libraries.

(10) Every student has the right to fully participate in the planning of his education.

APPENDIX B

June 3, 1970

S T A T E M E N T

by Dr. Edward P. Palmason, President
Seattle School Board

We have two purposes in meeting today with the students, principals, teachers and the press. The first is to announce the creation of a district-wide student senate. The senate will be a representative body comprised of one sophomore, one junior and one senior from each of Seattle's twelve high schools.

Some months ago, students representing the Interhigh Council came to the administration with the observation that Interhigh Council and its purposes were outdated. They further expressed a desire to be more active in the decision-making processes of the school district.

The School Board agrees that students should play a larger role in planning the future. Therefore, the Board is asking the student body presidents of Seattle's twelve high schools to prepare for elections in the fall for a student senate.

The second reason we called you here today is to announce that the Board, at the next regular meeting, will adopt a document entitled, "Statement of Rights and Responsibilities Including Substantive Regulations and Due Process Procedures". For more than

six months we have been working on creating this document. It guarantees students the rights that the Constitution confers upon them. Furthermore, it defines the limitations upon the exercise of those rights. In addition, a due process procedure has been developed so each student accused of a violation will be entitled to a fair and impartial hearing.

The document speaks for itself. Two things, however, should be pointed out: first, rules and regulations are necessary in any organized society; and second, voluntary acceptance and cooperation with these rules and regulations are the basis upon which all of society rests. We believe that the young men and women in the Seattle Public Schools will continue to show that cooperation.

This statement is being adopted by the Board for one year only. During this year the District will thoroughly examine and discuss with teachers, students and parents the effectiveness of the statement. We expect, with one year's experience, and with the help and assistance of the District's constituents, to produce an even better document next year. We urge the Student Senate, when it meets in the fall, to take this statement under consideration and give us their best judgment and advice.

We are particularly grateful for the cooperation and contributions of the Seattle Alliance of Educators in drafting this document. Dr. Bottomly will highlight our appreciation by signing today in this press conference an agreement with the Seattle Alliance of Educators endorsing the substance of the statement.

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# # #

June 3, 1970

STATEMENT OF RIGHTS AND RESPONSIBILITIES INCLUDING SUBSTANTIVE REGULATIONS AND DUE PROCESS PROCEDURES

THE SEATTLE SCHOOL DISTRICT RECOGNIZES THE FOLLOWING:

THAT THE PRIMARY INTENT OF SOCIETY IN ESTABLISHING THE PUBLIC SCHOOLS IS TO PROVIDE AN OPPORTUNITY FOR LEARNING.

THAT STUDENTS HAVE FULL RIGHTS OF CITIZENSHIP AS DELINEATED IN THE UNITED STATES CONSTITUTION AND ITS AMENDMENTS.

THAT CITIZENSHIP RIGHTS MUST NOT BE ABRIDGED, OBSTRUCTED OR IN OTHER WAYS ALTERED EXCEPT IN ACCORDANCE WITH DUE PROCESS OF LAW.

THAT EDUCATION IS ONE OF THESE CITIZENSHIP RIGHTS.

PREAMBLE

A primary responsibility of the Seattle School District and its professional staff shall be the development of an understanding and appreciation of our representative form of government, the rights and responsibilities of the individual and the legal processes whereby necessary changes are brought about.

The school is a community and the rules and regulations of a school are the laws of that Community. All those enjoying the rights of citizenship in the school community must also accept the responsibilities of citizenship. A basic responsibility of those who enjoy the rights of citizenship is to respect the laws of the community.

Recent court decisions have indicated clearly that young people in the United States have the right to receive a free public education and the deprivation of that right may occur only for just cause and in accordance with due process of law.

The courts have also stated that students have the full rights of citizenship as delineated in the United States Constitution and its Amendments; and these rights may not be abridged, obstructed or in other ways altered except in accordance with due process of law. The First and Fourteenth Amendments to the Constitution of the United States prohibit states from unduly infringing upon the rights of speech and expression. In the school setting this restriction on state action limits the manner and extent to which schools may limit the speech and expression of students. In order to effectively regulate First Amendment rights, school authorities must show that the failure to regulate would create a material and substantial disruption of school work and discipline.

Administrators and teachers also have rights and duties. The teacher is required by law to maintain a suitable environment for learning and administrators have the responsibility for maintaining and facilitating the educational program.

The principal is authorized by statute to suspend students for cause. The teacher has the authority to suspend students from a class for cause. The following rules, regulations, and due process procedures statement are designed to protect all members of the educational community in the exercise of their rights and duties.

Nothing in this statement of student rights shall be held to limit the due process rights of educators or non-certificated school employees nor their use of the District Grievance Procedure.

STUDENTS' RIGHTS, RESPONSIBILITIES AND LIMITATIONS

A.

1. Proscribed activity. The following activities are among those defined as criminal under the laws of the State of Washington and the City of Seattle.

Arson - The intentional setting of a fire.

Assault - Physical threats or violence to persons.

Burglary - Stealing of school or personal property.

Explosives - Illegally used -- Explosives are not permitted on school property or at school-sponsored events.

Extortion, blackmail or coercion - Obtaining money or property by violence or threat of violence or forcing someone to do something against their will by force or threat of force.

Firearms - Illegal use - Firearms are prohibited on school property or at school-sponsored events.

Larceny - Theft.

Malicious Mischief - Property damage.

Robbery - Stealing from an individual by force or threat of force.

Sale, use or possession of alcoholic beverages.*

Sale, use or possession of illegal drugs.*

Trespass - Being present in an unauthorized place or refusing to leave when ordered to do so.

Unlawful interference with school authorities -- Interfering with administrators or teachers by force or violence.

Unlawful intimidation of school authorities - Interfering with administrators or teachers by intimidation by the threat of force or violence.

The commission of or participation in such activities in school buildings, on school property, or at school-sponsored events is prohibited. Disciplinary action will be taken by the school regardless of whether or not criminal charges result.

*The school official in charge will immediately remove from contact with other students anyone under the influence of alcohol or drugs and thereupon shall contact the parent or legal guardian.

2. Smoking. Smoking by students is not permitted on school property.

3. Dress and appearance. Dress and appearance must not present health or safety problems or cause disruption.

4. Attendance. Daily attendance of all who are enrolled in the Seattle Public Schools is required in accordance with state law and school board rules. Students will attend regularly scheduled classes unless officially excused.

5. Disruptive conduct. Conduct which materially and substantially interferes with the educational process is prohibited.

6. Cooperation with school personnel. Students must obey the lawful instructions of school district personnel.

7. Refusal to identify self. All persons must, upon request, identify themselves to proper school authorities in the school building, on school grounds or at school-sponsored events.

8. Off-campus events. Students at school-sponsored, off-campus events shall be governed by school district rules and regulations and are subject to the authority of school district officials. Failure to obey the rules and regulations and/or failure to obey the lawful instructions of school district officials shall result in loss of eligibility to attend school-sponsored, off-campus events.

9. Freedom of Expression.

   a. Rights and limitations to freedom of speech and assembly.

      1. Students are entitled to express verbally their personal opinions. Such verbal opinions shall not interfere with the freedom of others to express themselves. The use of obscenities, or personal attacks are prohibited.

      2. All student meetings in school buildings or on school grounds may function only as a part of the formal educational process or as authorized by the principal.

      3. Students have the freedom to assemble peacefully. There is an appropriate time and place for the expression of opinions and beliefs. Conducting demonstrations which interfere with the operation of the school or classroom is inappropriate and prohibited.

   b. Rights and limitations on freedom to publish.

      1. Students are entitled to express in writing their personal opinions. The distribution of such material may not interfere with or disrupt the educational process. Such written expressions must be signed by the authors.

2. Students who edit, publish or distribute handwritten, printed or duplicated matter among their fellow students within the schools must assume responsibility for the content of such publications.

3. Libel, obscenity, personal attacks are prohibited in all publications.

4. Unauthorized commercial solicitation will not be allowed on school property at any time. An exception to this rule will be the sale of non-school-sponsored student newspapers published by students of the School District at times and in places as designated by the school authorities.

5. The distribution by students in school buildings or on school grounds of unlawful material or of political material whose content reflects the special interests of a political candidate or political organization is prohibited.

10. Search and Seizure. The following rules shall apply to the search of school property assigned to a specific student (locker, desk, etc.) and the seizure of items in his possession:

a. There should be reasonable cause for school authorities to believe that the possession constitutes a crime or rule violation.

b. General searches of school property may be conducted at any time.

c. Search of an area assigned to a student should be for a specific item and be in his presence.

d. Illegal items (firearms, weapons) or other possessions reasonably determined to be a threat to the safety or security of others may be seized by school authorities.

e. Items which are used to disrupt or interfere with the educational process may be temporarily removed from student possession.

Any section of this document, or portion thereof, found by adjudication to be contrary to law or constitutional right shall be stricken without effect to the remainder.

B. Procedural Rules and Regulations for the School Community - Due Process.

The constitutional rights of individuals assure the protection of due process of law; therefore, this system of constitutionally and legally sound procedures is developed with regard to the administration of discipline in the Seattle Public Schools:

1. The hallmark of the exercise of disciplinary authority shall be fairness.

2. Every effort shall be made by administrators and faculty members to resolve problems through effective utilization of school district resources in cooperation with the student and his parent or guardian.

3. A student must be given an opportunity for a hearing if he or his parent or guardian indicate the desire for one. A hearing shall be held to allow the student and his parent or guardian to contest the facts which may lead to disciplinary action or to contest the appropriateness of the sanction imposed by a disciplinary authority or if the student and his parent or guardian allege prejudice or unfairness on the part of the school district official responsible for the discipline.

4. The hearing authority may request the student and parent or guardian to attempt conciliation first but if the student and parent or guardian decline this request the hearing authority shall schedule the hearing as soon as possible.

5. The following procedural guidelines will govern the hearing:

   a. Written notice of charges against a student shall be supplied to the student and his parent or guardian.

   b. Parent or guardian shall be present at the hearing.

   c. The student, parent or guardian may be represented by legal counsel.

   d. The student shall be given an opportunity to give his version of the facts and their implications. He should be allowed to offer the testimony of other witnesses and other evidence.

   e. The student shall be allowed to observe all evidence offered against him. In addition he shall be allowed to question any witness.

   f. The hearing shall be conducted by an impartial hearing authority who shall make his determination solely upon the evidence presented at the hearing.

g. A record shall be kept of the hearing.

h. The hearing authority shall state within a reasonable time after the hearing his findings as to whether or not the student charged is guilty of the conduct charged and his decision, if any, as to disciplinary action.

i. The findings of the hearing authority shall be reduced to writing and sent to the student and his parent or guardian.

j. The student and his parent or guardian shall be made aware of their right to appeal the decision of the hearing authority to the appropriate appellate authority.

C. Levels of Suspension

Suspension 1. A student is suspended from a class or classes but not from the building. Technically speaking this is not a suspension but a debarment, that is, the student is being barred from classroom attendance. This action by a teacher is subject to review by the principal which will include consultation with the teacher. Formal due process procedures are not appropriate in this situation.

Suspension 2. A student is suspended from the building for the remainder of the school day.

Suspension 3. A student is suspended from the building pending a conference with the parents or guardian.

Suspension 4. A student is suspended for the remainder of the semester or for a given period of time.

Suspension 5. A student is suspended from attendance at or participation in a school district sponsored activity.

APPENDIX C

PROPOSED LEGISLATION REGARDING
SUBSTANTIVE RIGHTS OF PUPILS

AN ACT Relating to rights of students in the common schools; and adding new sections to chapter 223, Laws of 1969 ex. sess. and to chapter 28.A.58 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. Section 1. In addition to other rights established by Law, the following shall be substantive rights of students in the common schools of the state of Washington, and neither the state nor any of its political subdivisions shall limit these rights except for the reasons enumerated in section 2 of this 1971 act:

(1) Students shall have the right to the free exercise of religion and freedom of speech and of the press and the right to peaceably assemble and to petition the government and its representatives for a redress of grievances.

(2) Students shall have the right to be secure from school authorities in their persons, papers, and effects against unreasonable searches and seizures.

(3) No student in any disciplinary proceeding in a school district shall be subject for the same offense to be twice put in jeopardy of educational status or other punishment; nor shall such student be compelled in any disciplinary proceeding by a school district to be a witness against himself; nor shall such student be deprived of educational opportunity or otherwise disciplined by a school district without due process of law.

NEW SECTION. Sec. 2. The rights enumerated in section 1 of this 1971 act shall be applicable to all students in the common schools of the state of Washington and shall not be limited by school authorities except for the direct preservation of their own, their fellow students' or the public's health or safety or for the maintenance of essential educational functions.

NEW SECTION. Sec. 3. No school district shall deny any student equal educational opportunity or discriminate against any student because of national origin, race, religion, or sex.

NEW SECTION. Sec. 4. The enumeration of this 1971 act of certain rights shall not be construed to deny or disparage others enumerated in the Constitutions of the United States and the state of Washington, or those retained therefrom by the students, their parents, or the people.

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NEW SECTION. Sec. 3. No school district shall deny any student equal educational opportunity or discriminate against any student because of national origin, race, religion, or sex.

NEW SECTION. Sec. 4. The enumeration in this 1971 act of certain rights shall not be construed to deny or desparage others enumerated in the Constitutions of the United States and the state of Washington, or those retained therefrom by the students, their parents, or the people.

NEW SECTION. Sec. 5. Pursuant to the provisions of this 1971 act, the board of directors of each school district shall adopt reasonable rules and regulations for the protection of the substantive rights of students in the common schools.

NEW SECTION. Sec. 6. Any student in the common schools who believes his rights under this 1971 act have been abridged may request and shall be provided such appeal to the appropriate authorities as otherwise may be provided by law.

NEW SECTION. Sec. 7. Sections 1 through 6 of this 1971 act are hereby added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.58 RCW.

N NEW SECTION. Sec. 8. If any provisions of this 1971 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to the other persons or circumstances is not affected.